

Pay Administration

Premium Pay and Differentials

Summary of Changes. This regulation describes premium pay and differentials available to California National Guard technician employees. It replaces in part the Technician Personnel Manual, dated March 2000, Chapter 4.

Applicability. California National Guard Full-time Personnel Regulation (CNGFPR) applies to all California Army and Air National Guard technicians and to commanders, managers and supervisors (military or civilian) with authority or responsibility over technician personnel management.

Proponent and Exception Authority. The proponent of this regulation is the Joint Force Headquarters, J-1, Directorate for Human Resources. The proponent has authority to approve exceptions to this regulation when they are consistent with controlling laws and regulations.

Supplementation. Supplementation of this regulation is prohibited.

Suggested Improvements. Users of this regulation are invited to send comments and suggested improvements to Joint Force Headquarters, Directorate for Human Resources, 9800 Goethe Road, Sacramento, CA 95826-9101.

Distribution. Distribution of the regulation is Army - A and Air Force - F.

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1. Purpose.

This full-time personnel regulation establishes the guidelines regarding Maximum Payable Rate and Highest Previous Rate as prescribed by Title 5 Code of Federal Regulations for the California National Guard.

2. References.

This FPR does not duplicate the provisions and rules found in statutes, the Code of Federal Regulations (CFR), or other directives cited below. This regulation must be used in conjunction with the references listed below:

- a. Title 5, United States Code (USC), Sections 5305, 5343, 5550b.
- b. Title 5, Code of Federal Regulations (CFR) Parts 203; 530; 531; 532; 550.
- c. OPM FWS Operating Manual, S-8-3e.

- d. DoD 1400.25-M, Subchapter 531.
- e. CNGFPR 630, Leave and Absences.
- f. CNGFPR 550, Environmental Differential Pay / Hazardous Duty Differential Pay.

3. Overtime Pay/Compensatory Time.

a. In accordance with the Technician Act of 1968 (P.L. 90-486), technicians who work overtime will be compensated with compensatory time in lieu of overtime pay. Compensatory time is earned for work in excess of 40 hours in a week and approved in advance by management.

b. Compensatory time may not be accrued for overtime performed while in a training status, such as, service schools, Professional Education Center (PEC) courses, or Office of Personnel Management (OPM) courses.

c. Compensatory time off for travel (coded CB) may only be earned for time in a travel status that is not otherwise "compensable." Compensable refers to periods of time that are creditable as hours of work for the purpose of determining a specific pay entitlement. Travel that is performed within the regularly scheduled duty hours on a holiday or on a day designated as the "in lieu of" holiday is not compensatory time.

(1) Creditable Travel. To be creditable under this provision, travel must be officially authorized in a travel status.

(2) Commuting Time. Travel outside of regular working hours between an employee's home and a temporary duty station or transportation terminal outside the limits of his or her official duty station is considered creditable travel time. However, the agency must deduct the employee's normal home-to-work/work-to-home commuting time from the creditable travel time. Travel outside of regular working hours between a worksite and a transportation terminal is creditable travel time, and no commuting time offset applies. Travel outside of regular working hours to or from a transportation terminal within the limits of the employee's official duty station is considered equivalent to commuting time and is not creditable travel time.

(3) Crediting, Use, and Limitations. Compensatory time off for travel is credited and used in increments of one-tenth of an hour (6 minutes). There is no limitation on the amount of compensatory time off for travel an employee may earn.

(4) Forfeiture. Compensatory time off for travel is forfeited if not used within 26 pay periods; upon voluntary transfer to another agency; or, upon separation from the Federal Government. Under no circumstances may an employee receive payment for unused compensatory time off for travel.

d. Temporary technicians are entitled to earn compensatory time.

e. If a temporary technician is terminated before compensatory time is used, the compensatory time is forfeited.

f. Compensatory time must be used before annual leave, unless annual leave would be forfeited.

g. Time limits on the use of compensatory time. Compensatory time must be taken within 26 pay periods after the pay period in which it was earned or it will be forfeited. Compensatory time that is forfeited cannot be reinstated.

h. Holiday hours are included in the basic forty hour workweek and are, therefore, considered as compensatory time.

i. Refer to CNGFPR 630, Leave and Absences, for more information regarding compensatory time.

4. Night Differentials.

a. Night Shift Differential. National Guard Federal Wage System (FWS) technicians shall be paid a premium consisting of an additional 7.5% of the basic rate of pay for all hours worked in a pay status, when the bulk of those hours are scheduled between 1800 and 2400. National Guard FWS technicians shall be paid a premium consisting of an additional 10% of the basic rate of pay for all regularly scheduled hours worked in a pay status, when the bulk of those hours are scheduled between 2300 and 0600. (Refer to 5 CFR 532.505)

b. Night Pay Differential. National Guard General Schedule (GS) technicians shall be paid a premium consisting of an additional 10% of the basic rate of pay for all regularly scheduled hours worked in a pay status between 1800 and 0600. (Refer to 5 CFR 550.121)

c. Temporary Assignment to a Different Daily Tour of Duty. A technician is entitled to a pay differential when he or she is temporarily assigned during the administrative workweek to a daily tour of duty that includes night work. This temporary change in a daily tour of duty within the technician's regularly scheduled administrative workweek is distinguished from a period of irregular work in addition to the

technician's regularly scheduled administrative workweek. Request for temporary pay differential must be approved by the Directorate for Human Resources.

5. **Holiday Premium Pay.**

a. National Guard technicians may be paid a premium consisting of an additional 100% of the basic rate of pay for all regularly scheduled hours worked in a pay status on holidays. (Refer to 5 CFR 532.507 and 5 CFR 550.131) When a full-time technician is required to work on a designated holiday (or a day designated as the "in lieu of" holiday), he/she is entitled to be paid holiday pay (receives 1 hour of pay plus an additional 1 hour of pay for the holiday which equals two hours of pay) for each hour of work not to exceed the technician's regular work hours.

b. If the full-time technician is required to work beyond their regularly scheduled work hours on a holiday, the employee will receive the appropriate amount of compensatory time at the rate of one hour of compensatory time for each additional hour worked beyond the regular scheduled work hours.

6. **Sunday Premium Pay.**

National Guard technicians shall be paid a premium consisting of an additional 25% of the basic rate of pay for all regularly scheduled hours worked in a pay status on Sundays. (Refer to 5 CFR 532.509 and 5 CFR 550.171)

7. **Severance Pay.**

a. Technicians may be entitled to severance pay when **involuntarily** separated from their employment. A technician is entitled to severance pay if the following requirements are met:

(1) The technician's separation is involuntary and not for reasons of misconduct, delinquency or inefficiency.

(2) The technician has not declined an offer of an equivalent position in the same commuting area.

(3) Are full-time or part-time Permanent or Indefinite technicians.

(4) Have been employed currently for a continuous period of at least 12 months.

(5) Are **not entitled** to an immediate retirement annuity under any retirement law or retirement system applicable to Federal employees. (NOTE: Technicians separated because of promotion to General Officer are considered to be involuntarily separated and are entitled to severance pay.)

b. Technicians are considered to be **voluntarily separated** and are not entitled to severance pay if the separation is based on:

(1) Voluntary resignation or failure to reenlist.

(2) Loss of military membership for failure to comply with military requirements.

c. **Severance Pay Fund.** The severance pay fund is based on a technician's creditable (civilian) service. Military service and temporary appointments of 90 days or less are not creditable. The amount of severance pay is based on one week's pay for every year of service up to 10 years; two week's pay for every year after 10 plus a 10 percent adjustment for each year over age 40. There is a lifetime 52-week limit on the number of weeks a technician can ever be entitled to severance pay. Severance pay may be received as a lump-sum payment or be paid at the same interval as when the technician was employed. Severance pay that is received as a lump sum is taxed at a much higher rate. No deductions will be made from severance pay other than Federal and State income tax withholding, Medicare and FICA tax.

d. **Severance Pay Termination.** Severance pay is terminated when the technician is accepted for a permanent position in Federal service. A technician may accept one or more temporary appointments while receiving severance pay without losing his/her severance pay entitlement. However, severance pay is suspended during the periods of temporary appointments and the periods of service covered by the temporary appointment are not creditable for purposes of computing the severance pay it interrupts.

8. **Back pay.**

a. The Back Pay Act provides a mechanism to compensate technicians for errors in the computation or distribution of their pay. It is the policy of the National Guard Bureau to render restitution in cases where an unwarranted or unjustified personnel action deprives a technician of all or part of their due compensation, in accordance with the law and sound fiscal policies.

b. **Situations Warranting Back Pay.** (Refer to 5 CFR 550.804)(1)) Delay in Processing a Promotion or Other Pay Action. National Guard technicians who are financially injured by a delay in processing a duly

authorized (having received all requisite approvals) promotion, within grade increase, or other non-classification action, may be eligible for an award of back pay. Back pay consists of the difference between the amount received and the actual amount that should have been paid, plus interest and reasonable attorney's fees. NOTE: Back pay awards may never be granted for classification actions. (Refer to 5 CFR 550.801(b))

(2) Unjustified or Unwarranted Personnel Action. (See definition under 5 CFR 550.803)

(3) Statute of Limitations. There is a statute barring back pay awards for more than six years from the occurrence of the offending action, or the timely filing of the appeal or grievance. For appeals or grievances, see 5 CFR 550.804(e)(2) For Fair-Labor Standards Act claims, the maximum time period is three years. (Refer to 5 CFR 550.804(e)(3))

c. Situations Not Warranting Back pay.

(1) Classification Actions. (Refer to 5 CFR 550.801(b)) All classification actions are exempt under the Back Pay Act.

(2) Back pay may not be granted to compensate for mistakes in oral or written guidance provided by State officials who do not have the final authority to take or approve the actions on which they are advising the technician.

(3) Non-Selection. (Refer to 5 CFR 550.808)

d. Limitations on State Authorization to Approve Back Pay Awards.

(1) Monetary Limitations. The State Adjutant General may approve a back pay award that will result in the amount of \$10,000 or less. Approval of awards resulting in payouts in excess of \$10,000 must receive prior review and approval from NGB-HR.

e. Loss of Military Membership or Military Compatibility. NGB-HR shall review and approve any award of back pay stemming from a restoration to technician employment following a loss of Military Membership or a loss of Military Compatibility for the National Guard.

9. Environmental Differential Pay (EDP).

Entitlement to environmental differential pay applies only to Federal Wage Schedule (FWS) technicians while in pay status. Compensatory time worked is not a paid status for this purpose. Environmental Differential Pay will be paid only for duties that qualify in accordance with a list of situations published by the Office of Personnel Management (OPM) and have been approved by the Directorate for Human Resources. Refer to CNGFPR 550, Environmental Differential Pay / Hazardous Duty Differential Pay for further information.

10. Hazardous Duty Pay (HDP).

Entitlement to hazardous duty pay applies only to General Schedule (GS) technicians while in pay status. Compensatory time worked is not a paid status for this purpose. Hazardous Duty Pay will be paid only for duties that qualify in accordance with a list of situations published by the Office of Personnel Management (OPM). It has been determined that there are no situations for which a GS technician would be entitled to HDP at the present time. Refer to CNGFPR 550, Environmental Differential Pay / Hazardous Duty Differential Pay for further information.

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